IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 3391 of 2005
With
FIRST APPEAL No. 3600 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAMJU SIDDIQUE - Appellant(s)
Versus
KUCHCHH SALT & ALLIED INDUSTRIES LTD. - Defendant(s)

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Appearance :
MR PANKAJ R DESAI for Appellant(s) : 1,1.2.1
MS SHAILI A KAPADIA for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 11/04/2007

ORAL COMMON JUDGMENT

ADMIT. Ms. Shaili A. Kapadia, learned advocate appearing waives service on behalf of the respondent. With the consent of learned

advocates appearing on behalf of respective parties, both these appeals are taken up for final hearing today and are being disposed of by this common judgment and order as common questions of law and facts arise in both these appeals.

2. First Appeal No. 3391 of 2005 is filed by the appellant, original-claimant challenging the judgment and order dated 14.10.2004 passed by the Commissioner for Workmen's Compensation at Gandhidham, Kutch in Workmen's Compensation (Fatal) Case No. 37 of 1999 by which the learned Commissioner has dismissed the said application. First Appeal No. 3600 of 2006 is filed by the appellants, original-claimants challenging the judgment and order dated 14.10.2004 passed by the Commissioner for Workmen's Compensation at Gandhidham, Kutch in Workmen's Compensation (Fatal) Case No. 42A/1999 by which the learned Commissioner has dismissed the aforesaid application.

3. The learned advocates appearing on behalf of respective parties have submitted that in identical facts and circumstances where the learned Commissioner has dismissed the Claim Application in First Appeals No. 1653 of 2005 to 1664 of 2005, the Division Bench of this Court by order dated 14.7.2005 has allowed the said appeals and has remanded the matters to the learned Commissioner for Workmen's Compensation for deciding the same afresh. Learned counsel appearing on behalf of the respondents is not in position to dispute the same. Even otherwise, it is contended on behalf of the learned counsel for the appellants that the Commissioner had recorded the finding without giving opportunity to the claimants to lead evidence and satisfy the Commissioner that they were in fact the dependents.

4. Considering the judgment and order passed by the Division Bench of this Court dated 14.7.2005 in First Appeals No. 1653 of 2005 to

1664 of 2005 and for the reasons stated in the said judgment and order,the impugned orders passed by the learned Commissioner for Workmen's Compensation are hereby quashed and set aside and both these appeals are allowed and Workmen's Compensation (Fatal) Case No. 37 of 1999 and W.C. (Fatal) Case No. 42A of 1999 are hereby remanded to the Commissioner with a direction to decide a fresh whether the claimants were dependents or not, after giving opportunity to the appellants to give evidence and establish their claims as dependents. It will also be open to the respondents to contend that none of the appellants is at all a dependent of deceased workmen and give evidence. It is clarified that, in any case, the Commissioner cannot hold a claimant to be a dependent of more than one deceased workman. Both these Appeals are allowed to the aforesaid extent. The Commissioner shall take every endeavour to dispose of the proceedings at the earliest preferably within three months from the date of receipt of this order. The Record and Proceedings be sent down

immediately. There shall be no order as to costs.

[M.R. Shah, J.]

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